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In re Application of :
Nicholas D.L. Thorne et al :
Application No. 09/925,357 :
Filed: August 9, 2001 :
Attorney Docket No. GB 000104 :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition filed January 2, 2009, which is being treated as a petition under 37 CFR 1.313(a), to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

Petitioner requests that the present application be withdrawn from issue in order that a new Office Action be generated which specifies precisely which elements are missing from the drawings.

37 CFR 1.313(a) states, in part:

Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h).

However, a review of the record discloses that application became abandoned for failure to timely pay the issue and publication fees on or before January 1, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 1, 2009. The statute is clear that a failure to timely pay the issue fee within three months of the mailing date of the Notice of Allowance and Issue Fee Due will result in abandonment of the application. Accordingly, this application became abandoned by operation of law on January 2, 2009.

Applicant is advised that the abandonment of this application may only be overcome by filing a petition to revive under 37 CFR 1.137. A petition to revive is appropriate if applicant's failure to reply was either unavoidable or unintentional

For the above reason(s), this application will not be withdrawn from issue under the provisions of 37 CFR 1.313(a).

Any inquiries regarding this decision should be directed to Irvin Dingle at (571) 272-3210.

/Irvin Dingle/
Petitions Examiner
Office of Petitions